

**In The United States District Court
For The District of Nevada**

Case No.: CV-N-03-0119-HDM-VPC

VS.

**AMENDED ANSWER AND INTERIM
STATUS REPORT**

Defendant(s).

Amended Answer and Interim Status Report

986/98

1. The original Case management Order allows Mr. Bastie and others similarly situated, to file their own paperwork with the court (reference page 4 of NOTICE OF ENTRY OF CASE MANAGEMENT ORDER, October 23, 2003, see lines 18-19, "Defendants who were either general or wholesale agents may file separate motions on their respective behalf or respective joinder(s) to any motion filed by lead counsel.") as does the Constitution of the United States allow Mr. Bastie and others similarly situated to have pro se status with the court. The Order lists, "All Parties and Joint Defense Committee File Interim Status Reports" therefore, this answer is being submitted as per Order.

2. Mr. Bastie, and others similarly situated filed motions, objections, forum non-convenience and other pleadings with the court. The court has acted outside the outer parameters of law and procedure diminishing the case, in its entirety, to an exercise in extra-legal, extra-judicial charade.

3. Mr. Bastie, and others similarly situated filed an Objection To Lead Counsel and Mediator in December 2003. Mr. Bastie has received no answer. Mr. Bastie is on record as to having shown cause why he cannot attend mediation and/or use the services of a Lead Counsel. Please correct this in any future orders from the court.

4. The Case Management Order stipulated that Mr. Brace would have until February 20, 2004 to reply to Motions.

1 5. Mr. Brace, in his PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTIONS
 2 BASED ON: F.R.C.P. 12(b)(6); ERISA PREEMPTION; OBJECTIONS TO THE
 3 COURT APPOINTMENT OF LEAD COUNSEL AND A MEDIATOR; AND,
 4 MOTIONS CHALLENGING VENUE AND SEEKING TO TRANSFER VENUE
 5 PURSUANT TO 28 U.S.C. 1404; MEMORANDUM OF POINTS AND AUTHORITIES
 6 IN SUPPORT OF OPPOSITION, states that a Court Order was issued on February 23,
 7 2004 allowing him to respond with a single motion "late", that is, not by February 20,
 8 2004. Mr. Brace missed his original opportunity.

9
 10 6. Mr. Brace finally replied to Motions on June 24, 2004. Mr. Brace's reply was
 11 incomplete and failed to address points made by Mr. Bastie and others similarly situated.
 12 Mr. Brace has dishonored motions of Mr. Bastie and others similarly situated and,
 13 according to this court's own *Local Rules of Civil Practice*, LR 7-2 (d), states: "**The**
 14 **failure of an opposing party to file points and authorities in response to any motion**
 15 **shall constitute a consent to the granting of the motion**". Therefore, Mr. Bastie and
 16 others similarly situated should be dismissed with prejudice immediately.

17
 18 7. Mr. Bastie and others similarly situated have not, as of July 19, 2004, heard from
 19 the court concerning their motions, objections, forum non-conveniens nor, specifically,
 20 their Objection to Lead Counsel and Mediator. Therefore, they have not attended any
 21 mediation, as mediation would be wholly inappropriate where the manner is, as a matter
 22 of law, a non-suit. These documents have been filed with the court for months.
 23

1 8. Mr. Brace, in his single answer to all motions, failed to address each point that
2 Mr. Bastie raised and therefore they must be deemed as true and Mr. Bastie and others
3 similarly situated should be dismissed with prejudice.

4 9. Mr. Brace "missed" his answer to motions date yet received another "chance" by the
5 court (see above referenced February 23, 2004 order also referenced by Mr. Brace). Mr.
6 Bastie and others similarly situated should be dismissed with prejudice.

7
8 10. Thus far, the court has disregarded the fact, undeniable on the record, that the
9 court is in want of Subject Matter Jurisdiction relative to Mr. Bastie and others similarly
10 situated; Mr. Brace, practicing fraud by concealment or constructive fraud has further
11 deprived the court of subject matter jurisdiction to order Mr. Bastie and others similarly
12 situated to attend mediation.

13
14 11. Mr. Bastie still stands on his forum non-conveniens issues and reminds the court
15 that among his other points, that expecting Mr. Bastie to travel to Nevada would
16 flagrantly trespass on the substantive due process right of Mr. Bastie. This court has
17 actual knowledge that Mr. Brace has dishonored every material presentment by Mr.
18 Bastie and other similarly situated causing this court to fall in to disrepute; additionally,
19 this court's courtesy to the flagrant misconduct of Mr. Brace suggests collusion.

20
21 12. Mr. Brace failed to establish that the court has Subject Matter Jurisdiction (refer
22 to Motion To Strike Plaintiff's Consolidated Answers by Mr. Bastie). The court has a
23 non-discretionary duty to dismiss Mr. Bastie and others similarly situated.

1
2 13. Mr. Bastie has submitted to the court notice of Mr. Brace's extortion and mail
3 fraud (see last year's notice to the court July, 2003), which the court disregarded in
4 violation of 18 USC 4. Mr. Bastie reminds this court that the Court was deprived of
5 Subject Matter Jurisdiction for reason of convenient reaching and grasping of the unclean
6 hands of Mr. Brace.

7
8 14. Mr. Bastie has also noticed the court concerning Mr. Brace's improper use of
9 terminology, which rises to a level of fraud on the court. In example, Brace uses terms
10 "wholesale" and derivatives, and "retail" which, in a context of companies offering
11 insurance contracts are not merely an anomaly, such practices would be patently illegal.
12 Although most insurance agents would presume Brace to be ignorant, this court is
13 reminded, that Brace had a duty under oath, to make inquiry, reasonable under the
14 circumstances, and thus confessed unclean hands. Mr. Bastie reminds the court that fraud
15 on the court deprives the court of jurisdiction.

16
17 15. Recently, as of July 2, 2004, even Mediator, Robert G. Berry, issued an Order
18 stating the obvious, that Mr. Bastie and others similarly situated did not attend Mediation
19 III on June 30, 2004. Mr. Berry also states in this Order, that these defendants did not
20 attend or show cause. Mr. Berry failed to note the court has yet to establish subject
21 matter jurisdiction and that Mr. Bastie and the others, filed a forum non-conveniens
22 (December, 2003) showing cause and stating legitimate reasons why they could not
23 attend. The court never answered that pleading and, hopefully, this was not concealed

1 from Mr. Berry. Mr. Berry would be advised to refer to that forum non-conveniens since
2 Mr. Bastie and others similarly situated stand on that pleading.

3
4 16. To this point, and in nearly 8 months of filing pleadings, the court has not
5 answered the pleadings and notices of Mr. Bastie and others similarly situated. As a
6 result, the court has not established subject matter jurisdiction in this case. Therefore,
7 neither update nor interim status report can be filed concerning the pleadings.

8
9 17. Thus far, as of the date of this report, no proof has been offered by the plaintiff
10 that Gary Bastie or others similarly situated are liable for paying other people's claims. It
11 can be established however, that these defendants have been personally and monetarily
12 damaged by Employers Mutual, LLC and by the actions of Mr. Brace, Mr. Dillon, and
13 others who seek funds from these defendants.

14
15 18. An element of fraud exists in the claims reported on 2 CD's provided (sent by Mr.
16 Brace to Mr. Bastie and others similarly situated). Mr. Bastie has noted that with respect
17 to the 2 CD's dated on or about May 17, 2004 and July 1, 2004 the amounts do not
18 match. Mr. Brace was deemed to have done his due diligence with respect to this case
19 prior to filing it however these amounts and the amounts on a number of Brace court
20 filings and different letters of correspondence from Mr. Brace demonstrate that the claim
21 amounts never matched. If the court and Mr. Bastie are to believe that one claim report is
22 accurate, then the amounts on all the others must be deemed inaccurate. The only
23 conclusion Mr. Bastie can draw is that there is an element of fraud in all the claims

1 reports. Mr. Bastie is unable to sort out which report is the legitimate one and therefore
2 cannot respond.

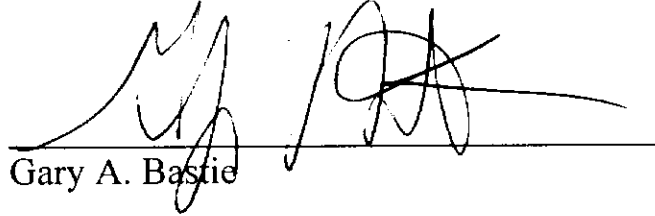
3
4 19. The claims submitted for review (thus far) to Mr. Bastie, via the 2 CD's
5 referenced above, have no accompanying proof of professional CLU, CPCU, CPA, or
6 other fraud investigating, claims adjudicating or claims adjusting. Mr. Bastie is not
7 trained nor licensed in any of these areas. As a result, Mr. Bastie cannot make heads or
8 tails out of the claim CD's and is in no position to testify as to their accuracy, validity or
9 authenticity.

10 11 **Conclusion and Status**

12
13 Mr. Bastie and others similarly situated notice this court that this instant case is a
14 veritable minefield of jurisdictional failings causing this court's continued disregard for
15 the rule of law to subject this court to unkind commentary and possible criminal inquiry.
16 This court's swift response to dismiss this instant case against Mr. Bastie and others
17 similarly situated avoids the conclusion that this court has willfully colluded with Mr.
18 Brace to extort money and property from Mr. Bastie and others similarly situated.

Prepared and submitted by:

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Gary A. Bastie

CERTIFICATE OF SERVICE BY ~~FACSIMILE AND~~ MAIL

I CERTIFY that I, on this 5th day of August 2004, mailed a true and correct copy of this Answer and Interim Status Report directly to the court, and to the Clerk of the Court, as well as mailing to those on the Certificate of Service List below.

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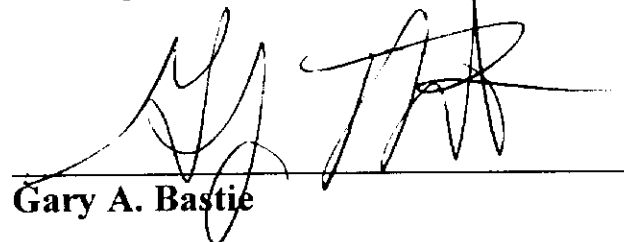
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Gary A. Bastie